

16 C.J.S. Constitutional Law § 172

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Constitutional Law

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PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

III. Construction, Operation, and Enforcement of Constitutional Provisions

C. Persons Entitled to Raise Constitutional Questions

3. Standing of Particular Types of Persons

a. In General

§ 172. Taxpayers—Requirement of direct injury

Topic Summary | References | Correlation Table

West's Key Number Digest

West's Key Number Digest, Constitutional Law  683

A taxpayer may not urge the unconstitutionality of a statute or administrative regulation where he or she is not directly, injuriously, or prejudicially affected by its allegedly unconstitutional feature.

A taxpayer may not urge the unconstitutionality of a statute or administrative regulation where he or she is not directly,¹ injuriously, or prejudicially affected by its allegedly unconstitutional feature.² To satisfy the injury-in-fact requirement for taxpayer standing, the plaintiff must demonstrate a clear nexus between his or her status as a taxpayer and the challenged government action.³

A taxpayer cannot complain of others' grievances to sustain his or her attack on the statute,⁴ as by urging that it deprives others of property without just compensation,⁵ unless a general exception to the third-party standing rules exists.⁶ Furthermore, a taxpayer cannot question the constitutionality of a statute the effect of which is to decrease, rather than increase, his or her tax burdens.⁷

A taxpayer has standing to challenge the collection of a specific tax assessment as unconstitutional; being forced to pay such a tax causes a real and immediate economic injury to the individual taxpayer.⁸

CUMULATIVE SUPPLEMENT

Cases:

A taxpayer has standing to challenge the collection of a specific tax assessment as unconstitutional; being forced to pay such a tax causes a real and immediate economic injury to the individual taxpayer. *Teeboom v. City of Nashua*, 213 A.3d 877 (N.H. 2019).

[END OF SUPPLEMENT]

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Footnotes

- 1 U.S.—*Doremus v. Board of Ed. of Borough of Hawthorne*, 342 U.S. 429, 72 S. Ct. 394, 96 L. Ed. 475 (1952).
Fla.—*State, Dept. of Revenue v. Swinscoe*, 376 So. 2d 1 (Fla. 1979).
Ga.—*Lott Invest. Corp. v. Gerbing*, 242 Ga. 90, 249 S.E.2d 561 (1978).
Md.—*Stovall v. Secretary of State*, 252 Md. 258, 250 A.2d 107 (1969).
N.Y.—*Posner v. Rockefeller*, 33 A.D.2d 314, 307 N.Y.S.2d 957 (3d Dep't 1970), order aff'd, 26 N.Y.2d 970, 311 N.Y.S.2d 15, 259 N.E.2d 484 (1970).
N.C.—*Wilkes v. North Carolina State Bd. of Alcoholic Control*, 44 N.C. App. 495, 261 S.E.2d 205 (1980).
Increase in taxes insufficient
U.S.—*Western Min. Council v. Watt*, 643 F.2d 618 (9th Cir. 1981).
Abortion funding
State citizens lacked taxpayer standing to bring a free exercise claim challenging expenditures of state funds for abortions for low-income women as they failed to show a direct injury.
U.S.—*Tarsney v. O'Keefe*, 225 F.3d 929 (8th Cir. 2000).
- 2 U.S.—*Appling County v. Municipal Elec. Authority of Georgia*, 621 F.2d 1301 (5th Cir. 1980).
Ark.—*Dowell v. School Dist. No. 1, Boone County*, 220 Ark. 828, 250 S.W.2d 127 (1952).
Mich.—*Jones v. Shirley*, 56 Mich. App. 65, 223 N.W.2d 367 (1974).
Mont.—*Monarch Min. Co. v. State Highway Commission*, 128 Mont. 65, 270 P.2d 738 (1954).
Nev.—*McLaughlin v. Housing Authority of City of Las Vegas*, 68 Nev. 84, 227 P.2d 206 (1951).
N.C.—*Wood v. City of Fayetteville*, 43 N.C. App. 410, 259 S.E.2d 581 (1979).
S.C.—*Booth v. Grissom*, 265 S.C. 190, 217 S.E.2d 223 (1975).
Wyo.—*Powers v. City of Cheyenne*, 435 P.2d 448 (Wyo. 1967).
Property tax
An interstate-pipeline company that did not engage in natural gas gathering did not have standing to challenge the constitutionality of a tax scheme that taxed the personal property of interstate-pipeline companies providing natural gas gathering services higher than the personal property of Ohio taxpayers that engaged in natural gas gathering.
Ohio—*Columbia Gas Transm. Corp. v. Levin*, 117 Ohio St. 3d 122, 2008-Ohio-511, 882 N.E.2d 400 (2008).
Abortion funding

Allegations that requiring state taxpayers to support abortion, through use of state funds to pay for abortions for low-income women, was noxious to the taxpayers' religious beliefs and sinful according to the taxpayers' religious faiths were insufficient to show the direct injury required for taxpayers to have standing to challenge such use of state funds under the Free Exercise Clause.

U.S.—Tarsney v. O'Keefe, 225 F.3d 929 (8th Cir. 2000).

Right to travel

A taxpayer who was not herself impeded from traveling to or settling in California by the property tax system which she challenged and who did not identify any obstacle preventing others who wished to travel to or settle in California from asserting claims on their own behalf could not have the tax system subjected to heightened scrutiny on the basis that the system violated the constitutional right to travel.

U.S.—Nordlinger v. Hahn, 505 U.S. 1, 112 S. Ct. 2326, 120 L. Ed. 2d 1 (1992).

Colo.—Hickenlooper v. Freedom from Religion Foundation, Inc., 2014 CO 77, 338 P.3d 1002 (Colo. 2014).

Education funding

Taxpayers' alleged injury, that they were required to pay higher taxes than similarly situated residents of property-rich school districts, was not a direct result of the enforcement of the education funding statute and was not fairly traceable to the actions of the Board of Education, the State Superintendent of Education, and the Governor, and therefore, the taxpayers lacked standing to challenge the constitutionality of an education funding statute; local school districts controlled the amount of local property taxes imposed, and the amount of general state aid received by local school districts was not reduced or adjusted to reflect higher local property taxes imposed by school districts and was based on a per pupil formula.

Ill.—Carr v. Koch, 2012 IL 113414, 367 Ill. Dec. 1, 981 N.E.2d 326, 288 Ed. Law Rep. 820 (Ill. 2012).

Violation of state constitution

When a plaintiff-taxpayer alleges that a government action violates a specific constitutional provision such as the Taxpayer's Bill of Rights (TABOR), such an averment satisfies the two-step standing analysis of a legally protected interest and an injury-in-fact.

Colo.—Barber v. Ritter, 196 P.3d 238 (Colo. 2008).

Colo.—Reed v. Dolan, 195 Colo. 193, 577 P.2d 284 (1978).

La.—Ricks v. Department of State Civil Service, 200 La. 341, 8 So. 2d 49 (1942).

S.C.—Sanders v. Greater Greenville Sewer Dist., 211 S.C. 141, 44 S.E.2d 185 (1947).

Ark.—Connor v. Blackwood, 176 Ark. 139, 2 S.W.2d 44 (1928).

Idaho—Williams v. Baldrige, 48 Idaho 618, 284 P. 203 (1930).

N.C.—Yarborough v. North Carolina Park Commission, 196 N.C. 284, 145 S.E. 563 (1928).

Alaska—Sonneman v. State, 969 P.2d 632 (Alaska 1998), holding that a citizen-taxpayer had standing to challenge the constitutionality of a statutory amendment which ended the practice of rotating the order of candidates' names on election ballots and replaced it with a random determination of the order of candidates' names; citizen-taxpayer was raising constitutional issues of public significance, he had preserved his core constitutional arguments on appeal, the parties were truly adverse, and there was no evidence that anyone who was more directly affected was likely to challenge the amendment.

As to exceptions to the rule regarding standing to assert a third party's constitutional claim, see §§ 166 to 169.

U.S.—Citizens' & Southern Nat. Bank v. City of Atlanta, Ga., 53 F.2d 557 (C.C.A. 5th Cir. 1931).

Tenn.—Sherrill v. Thomason, 145 Tenn. 499, 238 S.W. 876 (1922).

U.S.—U.S. v. Windsor, 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013).